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No. 01-1704

Supreme Court, U.S.
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In The

Supreme Court of the United States

REGENCY OUTDOOR ADVERTISING, INC.,
a California Corporation,

Petitioner,

v.

CITY OF LOS ANGELES,

Respondent.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Ninth Circuit

RESPONDENT'S BRIEF IN OPPOSITION

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QUESTIONS PRESENTED

The "Questions Presented" section of Petitioner's brief grossly mischaracterizes the City's sign regulation scheme.[1] Petitioner would have the Court believe that the City so severely restricts the placement of wall signs that the only way to receive permission to put up a wall sign is to obtain a mural sign permit from the Cultural Affairs Commission.[2]

This characterization is terribly misleading. The truth is that the City's sign ordinance authorizes eleven types of signs in the City[3], with each category being subject to different specific restrictions on factors such as size, density, and location. As an additional category of signs, the City also allows mural signs, which are signs that, among other things, must be "applied to and made integral with the wall."

Wall signs and mural signs are subject to different size restrictions. Under the sign ordinance,[4] banners/temporary signs and wall signs are limited to a maximum size of two

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[1] Petitioner also makes numerous false statements about the City's enforcement of its sign ordinance. Petition at 7.

[2] Petitioner at i.

[3] Illuminated architectural canopy ("canopy") signs (Los Angeles Municipal Code ("LAMC") §91.6211), monument signs (§91.6208), pole signs (§91.6212), information signs (§91.6207), projecting signs (§91.6209), roof signs (§91.6213), wall signs (§91.6210), window signs (§91.6214), marquee signs (§91.6215), mural signs (§91.6217), temporary signs (§91.6216) and offsite signs (§91.6218). *See also* LAMC §91.6201.3. Copies of all of these code sections are included in Appendix A hereto.

[4] LAMC §91.6217 (see Appendix A).

QUESTIONS PRESENTED – Continued

square feet of sign for each foot of lot frontage, plus, as to wall signs on buildings more than one story in height, a ten percent increase for each story, not to exceed fifty percent.[5] By contrast, the mural sign provisions do not place express size limits on mural signs but the "size, location and overall area" of a mural sign is as approved by the Cultural Affairs Commission. Such an approval, however, is not an "exemption" to the wall sign size restrictions because mural signs and wall signs are distinct categories of signs under the City's sign ordinance and the approval of signs in one category has no effect on signs in the other category.

In the present lawsuit, Petitioner's request for a preliminary injunction was denied by the district court and that denial was upheld by the Ninth Circuit. Petitioner now seeks review by this Court of that denial.

The standard of review of a lower court's denial of a preliminary injunction is "abuse of discretion". *Synanon Foundation, Inc. v. California*, 44 U.S. 1307 (1979). Therefore, if this Court is satisfied that the trial court did not "abuse its discretion" in denying the preliminary injunction, this Court should decline to take the matter up on appeal.

To determine if the trial court had a proper basis for denying injunctive relief, this Court should consider a number of factors. If even a single of these factors indicates that injunctive relief is not warranted, this Court

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[5] LAMC §§91.6216.3 and 91.6210.1.

QUESTIONS PRESENTED – Continued

will be justified in denying review. The factors to be considered are:

(1) that the facts of the underlying litigation have not been fully developed and its merits decided by the trial court;

(2) that Petitioner by its own conduct has demonstrated that there is no urgency warranting injunctive relief;

(3) that the City recently enacted a ban on mural signs which moots any need for a preliminary injunction of the City's mural provisions;

(4) that Petitioner does not have standing to pursue a preliminary injunction of the mural provisions because Petitioner's signs are not mural signs that will be affected by those mural provisions;

(5) that Petitioner cannot meet the substantive requirements in support of a preliminary injunction, which are the possibility of irreparable injury to Petitioner if the injunction is not granted and the likelihood that Petitioner will succeed on the merits on the underlying litigation.

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STATEMENT OF JURISDICTION

Respondent agrees with Petitioner's Statement of Jurisdiction.

STATUTES INVOLVED

In Appendix D to its petition for writ of certoriari, Respondent reproduces only some of the provisions of the Los Angeles sign ordinance that apply to this litigation. Other provisions of the City's sign ordinance, however, also apply here and for that reason Respondent has attached copies of those additional provisions at Appendix A hereto.

STATEMENT OF CASE

This case involves "Supergraphic" signs, which are very large signs produced by inexpensively machine painting images onto pieces of canvas or vinyl mesh fabric. Here, Petitioner caused numerous Supergraphic signs to be hung from walls and the sides of buildings in the City of Los Angeles for commercial advertising purposes.

After City inspectors became aware of several of these Supergraphic signs, the inspectors issued orders to comply, which stated that these signs did not comply with the City's sign ordinance. In response, Petitioner challenged the constitutionality of the City's sign ordinance. Specifically, Petitioner challenged the mural sign provisions of the sign ordinance and the alleged "unfettered discretion"

of the Cultural Affairs Commission[6] that reviews applications for mural sign permits.

More than five months after Petitioner filed the challenge, Petitioner sought a preliminary injunction to enjoin the City from "hindering or interfering in any way with the operation . . . of the wall/mural signs" at twenty-eight locations. To support a preliminary injunction, it was Petitioner's burden to show, among other things, that Petitioner was likely to prevail on the merits of the underlying constitutional challenge to the City's sign ordinance.

At the trial court hearing on Petitioner's request for a preliminary injunction, a key issue was whether Petitioner's signs even qualified as "mural signs"[7], which would give Petitioner standing to challenge the application of the sign ordinance to mural signs. Despite extensive briefing, however, Petitioner failed to submit any evidence that its signs were mural signs. By contrast, the City submitted overwhelming evidence, including photographs, which showed that each sign and display at the location for which Petitioner sought a preliminary injunction was nothing more than a cloth/vinyl banner (i.e. a "temporary sign" under the sign ordinance), which was not "applied to and made integral with a wall" and where text exceeded three percent.

Although Petitioner had alleged in its complaint that infirmities in the sign ordinance impacted twenty-eight of

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[6] The Cultural Affairs Commission has no involvement with any type of sign other than mural signs.

[7] A mural sign is a sign which is, among other things, "applied to and made integral with a wall" and has less than three percent text. LAMC §91.6203.

Petitioner's sites, by the time of the hearing on the request for preliminary injunction, Petitioner attempted to show that only three of its sites (6122-6 Hollywood Boulevard, 5300 West Santa Monica Boulevard and 1603-27 South San Pedro Street) had mural signs. The City presented a substantial amount of evidence that Petitioner's claims were false and the district court, after careful examination of that evidence, found Petitioner's claims "meritless".

Ultimately, the district court denied Petitioner's request for a preliminary injunction finding that Petitioner lacked standing because Petitioner's signs were not mural signs.

On appeal, the Ninth Circuit found that Petitioner did have standing but nevertheless affirmed the district court's denial of the preliminary injunction on the grounds that Petitioner was not likely to succeed on the merits.

SUMMARY OF ARGUMENT

There are multiple reasons why it would not be appropriate for the Supreme Court to take this matter up on appeal. First, to do so would be premature because numerous factual matters remain in dispute and the merits have yet to be decided below. Second, any urgency that may have previously justified a preliminary injunction has disappeared. Third, enjoining enforcement of the mural provisions of the City's sign ordinance is moot in light of the City's recently enacted ban on new mural signs. Fourth, Petitioner does not have standing to pursue a preliminary injunction of the mural provisions of the City's sign ordinance because those provisions do not affect Petitioner's signs which are not mural signs.

Finally, Petitioner cannot meet the substantive requirements for a preliminary injunction, which are irreparable injury and likelihood of success on the merits. The evidence before the district court was overwhelming that every sign displayed at the location for which Petitioner sought the preliminary injunction was not a "mural sign". Thus, Petitioner will not suffer any injury, let alone irreparable injury, from enforcement of the mural sign provisions. As to likelihood of success on the merits, Petitioner is not likely to prevail on its First Amendment challenge because, as found by the Ninth Circuit, the mural sign provisions of the City's sign ordinance further important governmental interests and are content-neutral.

Therefore, Petitioner's request for a preliminary injunction was properly denied by both the district court and the Ninth Circuit and this Court should deny the petition for writ of certiorari.

REASONS WHY THE PETITION SHOULD BE DENIED

I. Review of the lower court's denial of a preliminary injunction by this Court would be premature because the facts have not been fully developed and the merits fully heard by the trial court below.

It is not proper to issue a writ of certiorari until final judgment has been rendered in a case, except in exceptional circumstances. The lack of finality in the judgment below is by itself sufficient grounds for denying review. *Hamilton-Brown Shoe Co. v. Wolf Bros. & Co.*, 240 U.S. 251, 258 (1916).

Now that the Ninth Circuit has denied petitioner's request for a preliminary injunction, the facts can be fully developed and a final judgment on the merits rendered by the trial court. Only after such a final judgment, should the issuance of a writ of certiorari even be considered.

II. There is no urgency justifying a preliminary injunction.

There is no urgency warranting interim relief in this case as shown by Petitioner's delay in seeking such relief. Petitioner waited over five months after filing its complaint before it filed its motion for preliminary injunction.[8] Moreover, Petitioner filed two written stipulations to continue the trial date, which resulted in an aggregate delay of eleven months.[9] Agreeing to delay a decision on the merits for that amount of time indicates that there is no urgency justifying a preliminary injunction.

III. The request to enjoin enforcement of the mural provisions of the City's sign ordinance is moot in light of the City's recently enacted ban on mural signs.

The request to enjoin enforcement of the mural provisions of the City's sign ordinance is moot in light of the City's recently enacted ban on all new mural signs.

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[8] The complaint was filed on September 14, 2000, and Petitioner's motion for preliminary injunction was filed on February 8, 2001.

[9] The first stipulation was approved by District Court Judge Florence Cooper in December of 2001 and continued the trial date from April 16, 2002, to September 17, 2002. The second stipulation was approved by Judge Cooper in May of 2002 and continued the trial date from September 17, 2002, to March 18, 2003.

That ban was imposed by the enactment of City Ordinance No. 174517.[10]

IV. Because Petitioner's signs are not mural signs, Petitioner lacks standing to challenge the mural sign provisions of the City's sign ordinance.

To meet the Article III standing requirements of an actual "case" or "controversy", Petitioner must satisfy three elements: 1) Petitioner must have suffered an **injury in fact**; 2) the injury must be fairly **traceable** to the City's challenged conduct; and 3) it must **be likely that the injury will be redressed** by a favorable decision.[11]

In limited circumstances, a plaintiff may challenge an overly broad statute by showing that the statute inhibits the First Amendment rights of parties not before the court. To have standing to bring such a facial challenge, however, a plaintiff must demonstrate that the ordinance "creates an **unacceptable risk of the suppression of ideas**" and that the plaintiff has "**suffered an injury**."[12] In addition, the injury must be "an invasion of a legally protected interest which is (a) concrete and particularized . . . and (b) actual or imminent, not conjectural or hypothetical." *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992).

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[10] Ordinance No. 174517 added both "supergraphic signs" and "mural signs" to the list of prohibited types of signs set forth in LAMC §91.6205.11. Copies of Ordinance No. 174517 and LAMC §91.6205.11 are included in Appendix A hereto.

[11] *Friends of the Earth, Inc. v. Laidlaw Environmental Services (TOC), Inc.*, 528 U.S. 167, 180-181 (2000).

[12] *Young v. City of Simi Valley*, 216 F.3d 807, 815 (9th Cir., 2000).

To make this showing, Petitioner was required to produce evidence that its signs have been harmed by the mural sign provisions of the City's sign ordinance.[13] Petitioner failed to meet this burden and the evidence before the district court was overwhelming that every sign displayed at the locations for which Petitioner sought the preliminary injunction was a temporary banner sign and not a "mural sign" under the Sign Ordinance.[14]

By contrast, the City can present extensive evidence showing that all of Petitioner's signs were cloth or vinyl banners that do not meet the criteria for a mural sign, including the requirement that the sign be "applied to and made integral with" the wall of a building.[15]

Because Petitioner's signs are not mural signs that will be affected by the mural sign provisions, Petitioner lacks standing.

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[13] *Lujan*, 504 U.S. at 561; *Doe v. National Board of Medical Examiners*, 199 F.3d 146, 152, 153 (9th Cir. 1999).

[14] Exhibit C to Petition at C9 to C12.

[15] *See* 3/5/01 Dec. of B. Neighbors (Appellants' Record on Appeal before the Ninth Circuit ("ROA") 00574-00588); 2/27/01 Dec. of E. Key (ROA 00615-00620); 2/26/01 Dec. of E. Oddone (ROA 00290-00295, 301-304, 310, 317, 324, 326 and 331); 2/26/01 Dec. of D. Wong (ROA 00340-342, 349-351, 365, 372, 374, 3780; 2/26/01 Dec. of G. Taylor (ROA 00386-391, 397); 2/26/01 Dec. of J. Crawford (ROA 00402-00411).

V. Petitioner has not satisfied the requirements for a preliminary injunction.

A. Standards for the issuance of a preliminary injunction.

To warrant a preliminary injunction, a plaintiff must show either (1) a combination of probable success on the merits and the possibility of irreparable injury or (2) serious questions are raised and the balance of hardships tips in plaintiff's favor. *Gentala v. City of Tucson*, 213 F.3d 1055, 1060 (9th Cir. 2000). A strong showing of entitlement establishing both irreparable injury and probability of success on the merits is required to enjoin governmental action.[16]

The burden of persuasion is on the party seeking a preliminary injunction. *West Point-Pepperell, Inc. v. Donovan*, 689 F.2d 950, 956 (11th Cir. 1982). Because a preliminary injunction is an extraordinary remedy, courts require the movant to carry its burden of persuasion by a "clear showing."[17]

B. Standard of review of denial of a preliminary injunction.

Appellate courts ordinarily review the grant or denial of a preliminary injunction only for abuse of discretion. *Synanon Foundation, Inc. v. California*, 44 U.S. 1307 (1979). A court abuses its discretion by basing its decision

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[16] *Richenberg v. Perry*, 73 F.3d 172, 173 (8th Cir. 1995); *NAACP, Inc. v. Town of East Haven*, 70 F.3d 219, 223 (2nd Cir. 1995).

[17] *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997); *City of Angoon v. Marsh*, 749 F.2d 1413, 1415 (9th Cir. 1985).

either on an erroneous legal standard or clearly erroneous factual findings. *Walczak v. EPL Prolong, Inc.*, 198 F.3d 725, 732 (9th Cir. 1999).

C. Petitioner has not demonstrated irreparable injury.

Petitioner's signs do not qualify as mural signs and for that reason the mural provisions of the City's sign ordinance will not cause any injury to Petitioner's signs, let alone irreparable injury.

In considering any request for a preliminary injunction, the effect on the public interest must also be considered.[18] By putting up its signs without applying for the necessary permits, Petitioner bypassed and violated all governmental controls over the size, type and locations of signs, including criteria for safe construction and other safety-based regulations. This was and is not in the public interest.

D. Petitioner is not likely to prevail on the merits.

(1) The City's mural sign provisions do not violate the First Amendment because they are content-neutral and impose only reasonable time, place, and manner restrictions.

Petitioner argues that the City's mural sign permitting procedures impose a "prior restraint" that violates the

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[18] *Inland Steel Co. v. U.S.*, 306 U.S. 153, 157 (1939).

First Amendment.[19] It does not. A content-neutral permitting procedure does not run afoul of the First Amendment when the procedure satisfies the requirements of this Court's time, place, and manner jurisprudence: (1) the permit scheme is not based on the content of the message, (2) the scheme is narrowly tailored to serve a significant governmental interest, and (3) the scheme leaves open ample alternatives for communication. *Thomas v. Chicago Park District*, 534 U.S. 316 (2002) (ordinance that required permit for public assemblies, parades, and other events did not violate First Amendment because it was a content-neutral time, place, and manner restriction that contained adequate standards to guide official's decision).

All of these concerns are satisfied here. The first factor is met because the City's mural sign permitting procedures do not consider any aspect of the proposed mural sign's contents and are thus entirely content-neutral.[20] The second factor is satisfied because the mural sign provisions further the significant governmental interests of safety and aesthetics[21] without imposing any unnecessary restrictions on sign applicants. The third and final factor is met because ample alternative avenues are available to Petitioner through the sign ordinance which allows twelve separate categories of signs.[22]

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[19] Petition at 17.

[20] Under the mural sign provisions, the Cultural Affairs Commission does not consider the contents of a proposed mural sign but is limited to considering the placement, height, and overall area of the proposed mural sign (LAMC §91.6217.1) in light of six objectives including safety and aesthetics (LAMC §91.6201.2).

[21] LAMC §91.6201.2.

[22] *See* note 3, *supra*.

(2) The Ninth Circuit's decision to deny Petitioner's request for a preliminary injunction does not conflict with this Court's decision in *Metromedia, Inc. v. San Diego.*

Contrary to Petitioner's assertions, the Ninth Circuit's decision to deny Petitioner's request for a preliminary injunction does not conflict with this Court's decision in *Metromedia, Inc. v. San Diego*[23] and justify granting certiorari on that basis. In *Metromedia*, this Court recognized over twenty years ago that aesthetics[24] and traffic safety are substantial governmental goals that can justify a city's absolute ban on commercial offsite outdoor signs.[25] Rather than such a total ban, however, the City of Los Angeles' sign ordinance allows signs but regulates them through permissible time, place and manner restrictions. These types of restrictions certainly comport with this Court's decision in *Metromedia.*

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[23] 453 U.S. 490 (1981).

[24] "It is well settled that the state may legitimately exercise its police powers to advance its aesthetic interests." *Messer v. City of Douglasville*, 975 F.2d 1505, 1510 (11th Cir. 1992), citing *Members of City Council v. Taxpayers for Vincent*, 466 U.S. 789, 805 (1984)."

[25] "If the city has a sufficient basis for believing that billboards are traffic hazards and are unattractive, then obviously the most direct and perhaps the only effective approach to solving the problems they create is to prohibit them." *Metromedia, Inc*, 453 U.S. at 507-508. *See also Taxpayers for Vincent*, 466 U.S. at 807; *City and County of San Francisco v. Eller Outdoor Advertising*, 192 Cal.App.3d 643 (1987)."Despite the emergence of three distinct schools of thought in Metromedia, however, a clear majority-seven of the nine justices-expressly concluded that the city's substantial and weighty interests in minimizing unpleasant formats for expression and promoting safety and aesthetics justified an absolute ban on all commercial offsite outdoor signs." *Id.* at 658.

Along these same lines, Petitioner's reliance on *North Olmstead Chamber of Commerce v. City of North Olmstead*, 86 F. Supp. 2d 755, 767 (N.D. Ohio 2000) is misplaced because *North Olmstead* is an aberrational district court decision that has been criticized for not following *Metromedia. Onsite Advertising Services LLC v. City of Seattle*, 134 F. Supp. 2d 1210, 1214 (N.D. Wa. 2001).

(3) The mural sign provisions of the sign ordinance do not violate the *Lakewood* and *Desert Outdoor* cases.

Petitioner relies upon *Lakewood v. Plain Dealer*[26] and *Desert Outdoor Advertising, Inc. v. City of Moreno Valley*[27] for the proposition that the sign ordinance provisions on their face are unconstitutional. This reliance is misplaced. The Cultural Affair Commission's role with respect to mural signs is limited to approving their "placement, height and overall area" in light of the purposes and objectives set forth in LAMC 91.6201.2.[28] (LAMC §91.6217.1).

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[26] 486 U.S. 750, 769, 772 (1988).

[27] 103 F.3d 814 (9th Cir. 1996).

[28] LAMC §91.6201.2 specifies six objectives: 1. That the design, construction, installation, repair and maintenance of signs will not interfere with traffic safety or otherwise endanger public safety;

2. That the regulations will provide reasonable protection to the visual environment while providing adequate condition for meeting sign users' needs;

3. That incompatibility between signs and their surroundings will be reduced;

(Continued on following page)

Lakewood v. Plain Dealer did not involve signs, but instead an annual licensing scheme for newspapers, where granting the license was left to the discretion of the Mayor and the Court simply found the total absence of any "explicit limits" on discretion to be unconstitutional.[29] The City's mural sign provisions meet the *Lakewood* requirements because under the mural sign provisions the City's discretion is expressly limited to consideration of the "placement, height and overall area" of a proposed mural in light of the six objectives set forth in LAMC §91.6201.2.

Similarly, *Desert Outdoor* does not constitute authority that the Sign Ordinance vests "unfettered discretion." The "purposes and objectives" set forth in §91.6201.2 are specific and concrete factors that relate to the physical characteristics of signs as opposed to the vague "welfare of the general public" ordinance disapproved in *Desert Outdoor*.[30]

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4. That both the public and sign users will benefit from signs having improved legibility, readability and visibility;

5. That consideration will be given to equalizing the opportunity for messages to be displayed;

6. That adequacy of message opportunity will be available to sign users without dominating the visual appearance of the area."

[29] "It is apparent that the face of ordinance contains *no explicit limits on the Mayor's discretion*. Indeed, nothing in the law as written requires the mayor to do more than make the statement 'it is not the public interest' when denying a permit application. . . . We hold those provisions of the Lakewood ordinance giving the mayor unfettered discretion to deny a permit application and unbounded authority to condition the permit on any additional terms he deems 'necessary and reasonable' to be unconstitutional." *Lakewood v. Plain Dealer*, 486 U.S. 750 (1988) (emphasis added).

[30] " . . . City officials have discretion to deny a permit on the basis of ambiguous and subjective reasons. For example . . . will not have a

(Continued on following page)

Furthermore, neither *Lakewood* nor *Desert Outdoor* addressed the validity of ordinances whose goal is aesthetics, improving the quality of urban life, attracting tourists, protecting the visual environment, or improving the quality of life. Even though some of these interests may be somewhat subjective in nature and thus cannot be governed by purely objective criteria, this does not render an ordinance based on these interests unconstitutional[31] as all of these interests are legitimate and substantial governmental interests which must be afforded great weight and respect.[32]

The City's sign ordinance provides for objective criteria which guide both the Cultural Affairs Commission and any reviewing court. The mere fact that one can conceive of some impermissible applications of a statute is not sufficient to render it susceptible to an overbreadth challenge. *See Taxpayers for Vincent*, 466 U.S. at 800 (1984).

Accordingly, Petitioner's facial challenge of the City's sign ordinance and its mural sign provisions fails.

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harmful effect upon the health or welfare of the general public and will not be detrimental to the welfare of the general public and will not be detrimental to the aesthetic quality of the community or the surrounding land uses." *Desert Outdoor Advertising, Inc. v. City of Moreno Valley*, 103 F.3d 814, 818 (9th Cir. 1996).

[31] *See, e.g., National Advertising v. City and County of Denver*, 912 F.2d 405, 410-411 (10th Cir. 1990).

[32] *Metromedia, Inc.*, 453 U.S. at 509-510 (1980).

(4) The Cultural Affairs Commission does not have the power to exempt signs from the requirement of a building permit and a traffic safety study and these requirements are not disguised efforts to control speech.

Petitioner argues that the Cultural Affairs Commission has the power to exempt mural sign permit applicants from the requirements of a building permit and a Department of Transportation traffic hazard determination, with the implication being that the Commission will not exempt signs whose contents the Commission disfavors. This is not true. The express terms of the sign ordinance make a building permit and a traffic safety determination mandatory for all signs, including mural signs.[33]

In support of its contention, Petitioner insinuates that the Cultural Affairs Commission used traffic concerns as a pretext for censoring the Maria Callas sign for 1100 Wilshire in 1998.[34] Petitioner fails to mention that this sign was, in fact, determined by the Department of Transportation to constitute a traffic hazard[35] and the sign permit request was withdrawn, not rejected.[36]

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[33] *See* LAMC §§91.6205.1, 91.6205.2 and 91.6205.5.2 (see Appendix A).

[34] Petition at 23.

[35] " . . . DOT recommended denial of the sign permit . . . " Minutes of July 21, 1998 Meeting of Cultural Affairs Commission, p. 3. *See* Exhibit 6 to the 2/26/01 declarations of J. Smoke and M. Johnstone. (City's ROA 00000229 and 00000238.)

[36] " . . . Mr. Elmore withdrew the project. . . . " *See* 2/26/01 Dec. of J. Smoke, Exh. 7 (City's ROA 00000232) and 2/26/01 Dec. of M. Johnstone, Exh. 6 (City's ROA 00000240).

Petitioner's repeated assertions[37] that the City has denied mural sign applications based on disagreement with the message is simply not supported by the record. Petitioner's own evidence indicates the contrary.[38]

CONCLUSION

For the foregoing reasons, Petitioner's petition should be denied.

Dated: June 19, 2002

Respectfully submitted,

ROCKARD J. DELGADILLO,
City Attorney
KENNETH T. FONG,
Deputy City Attorney
Counsel for Respondent

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[37] Petition at 21.

[38] Petitioner's Exhibits in Support of Motion for Preliminary Injunction, Exhibit M, Cultural Affairs Committee Minutes of July 5, 1995, p. 5: "[Assistant City Attorney] Mr. Brown reiterated that the *Commission is restricted again by the Code not to consider the content or message of the mural signs* . . . Mr. Brown stated that they have to *follow the Code, which provides that they do not consider the content or the message of the mural*. Things that can be considered are the placement, overall area, color, height of the sign, the arrangement, etc. . . . " (emphasis added) (ROA 00144.)

APPENDIX A

ORDINANCE NO. 174517

An ordinance amending Sections 91.6203 and 91.6205.11 of the Los Angeles Municipal Code relating to signs.

THE PEOPLE OF THE CITY OF LOS ANGELES DO ORDAIN AS FOLLOWS:

Section 1. Section 91.6203 of the Los Angeles Municipal Code is amended by adding a new definition for the term "Supergraphic Sign" in alphabetical order to read:

> **SUPERGRAPHIC SIGN.** A sign, consisting of an image projected onto a wall or printed on vinyl, mesh or other material with or without written text, supported and attached to a wall by an adhesive and/or by using stranded cable and eye-bolts and/or other materials or methods, and which does not comply with the provisions in the Los Angeles Municipal Code Section 91.6201 *et seq.*, relating to Wall Signs, Mural Signs, Off-Site Signs and/or Temporary Signs.

Sec. 2. Section 91.6205.11 of the Los Angeles Municipal Code is amended by adding a new Subsection 9 to read:

> **9.** Are supergraphic signs, except when supergraphic signs are specifically permitted pursuant to a legally adopted specific plan, supplemental use district or an approved development agreement.

Sec. 3. Section 91.6205.11 of the Los Angeles Municipal Code is amended by adding a new Subsection 10 to read:

> **10.** Are mural signs, except when mural signs are specifically permitted pursuant to a legally adopted specific plan, supplemental use district or an approved development agreement.

Sec. 4. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located in the Main Street lobby to the City Hall; one copy on the bulletin board located at the ground level at the Los Angeles Street entrance to the Los Angeles Police Department; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of APR 17 2002.

J. MICHAEL CAREY,
City Clerk

By /s/ Conrad Carter
Deputy

Approved APR 19 2002

/s/ James K. Hahn
Mayor

Approved as to Form
and Legality

MAR 29 2002
ROCKARD J. DELGADILLO,
City Attorney

By /s/ Sharon Siedorf Cardenas
SHARON SIEDORF
CARDENAS
Assistant City Attorney

File No. C.F. 98-1474
CPC 2002-432 CA

Pursuant to Charter Section 559, **I approve** this ordinance and recommend its adoption on behalf of the City Planning Commission. . . .

March 28, 2002

see attached report.

/s/ Con Howe
CON HOWE
Director of Planning

DIVISION 62
(Division Amended by Ord. No. 171, 175, Eff. 7/25/96.)

SIGNS

SEC. 91.6201. SCOPE AND PURPOSE.
(Amended by Ord. No. 171,175, Eff. 7/25/96.)

91.6201.1. Scope. All exterior signs and sign support structures shall conform to the requirements of this division and all other applicable provisions of this Code, except that the provisions of Sections 91.6205.1, 91.6205.5, 91.6205.6, 91.6205.13, 91.6205.15, 91.6205.16, 91.6206, 91.6212 and 91.6218 shall not apply to the relocation of signs or signs support structures existing on January 17, 1993 that are erected or maintained by the Los Angeles Memorial Coliseum Commission on property owned or controlled, in whole or in part by said Commission.

91.6201.2. Purpose. The purpose of this division is to promote public safety and welfare by regulating signs in keeping with the following objectives:

1. That the designs, construction, installation, repair and maintenance of signs will not interfere with traffic safety or otherwise endanger public safety;

2. That the regulations will provide reasonable protection to the visual environment while providing adequate conditions for meeting sign users' needs;

3. That incompatibility between signs and their surroundings will be reduced;

4. That both the public and sign users will benefit from signs having improved legibility, readability and visibility;

5. That consideration will be given to equalizing the opportunity for messages to be displayed;

6. That adequacy of message opportunity will be available to sign users without dominating the visual appearance of the area.

91.6201.3. Application. On-site signs shall comply with the applicable provisions of Sections 91.6201 through 91.6215. Off-site signs shall comply with the applicable provisions of Sections 91.6201 through 91.6205 and 91.6218. Temporary on-site and off-site signs shall comply with the applicable provisions of Sections 91.6201 through 91.6205 and 91.6216. Mural signs shall comply with the applicable provisions of Sections 91.6201 through 91.6205 and 91.6217.

91.6201.4. Ideological and Political Signs. No provision of this division shall prohibit an ideological, political or other noncommercial message on a sign otherwise permitted by this division.

SEC. 91.6202. ENFORCEMENT.
(Amended by Ord. No. 171,175, Eff. 7/25/96.)

91.6202.1. Violations. It shall be unlawful for any person to erect, construct, install, enlarge, alter, repair, move, remove, convert, demolish, use or maintain any sign or sign support structure or cause or permit the same to be done, in violation of any of the provisions of this division.

Any person who violates or causes or permits another person to violate any of the provisions of this division is guilty of a misdemeanor.

91.6202.2. Penalties. Any person convicted of a misdemeanor under the provisions of this division shall be punishable by a fine of not more than $1,000.00 or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment. Each violation of the provisions of this division and each day during which such violation is committed or continues is a separate offense.

Any person convicted of violating any provision of this division may be required to pay restitution to the City of Los Angeles for all costs expended to investigate and/or enforce the provisions of this division.

SEC. 91.6203. DEFINITIONS.
(Amended by Ord. No. 171,175, Eff. 7/25/96.)

The following terms whenever used in this division are defined below. To the extent that other terms used in this division are defined in Section 12.03 and Division 2 of article 1 of Chapter IX of this Code, those definitions shall apply.

BUILDING FRONTAGE. The projection of the building walls upon the street used for street frontage.

FACE OF BUILDING. The general outer surface, not including cornices, bay windows or architectural projections, of any exterior wall of a building.

FREEWAY. A highway in respect to which the owners or those in possession of abutting lands have no right to easement of access to or from their abutting lands or in respect to which such owners have only limited or restricted right or easement of access, and which is declared to be such, in compliance with the Streets and Highways Code of the State of California.

IDENTIFICATION SIGN. A wall sign which is limited to a company logo, generic type of business or the name of a business or building.

ILLUMINATED ARCHITECTURAL CANOPY SIGN. An enclosed illuminated structure that is attached to the wall of a building with the face of the sign approximately parallel to the wall and with the message integrated into its surface.

INFORMATION SIGN. A sign which is limited to a message giving directions, instructions, menus, selections or address numerals.

MAIN TRAVELED ROADWAY OF A FREEWAY. That portion of a freeway, including interchange roadways connecting one freeway with another, which is designed for the movement of large volumes of vehicular traffic, efficiently and safely at high speed, but not including service roadways, landscape areas, or ingress or egress ramps connecting the freeway with other streets.

MONUMENT SIGN. (Amended by Ord. No. 172, 121, Eff. 8/30/98.) A sign that is erected directly upon the existing or artificially created grade, or that is raised no more than 12 inches from the existing or artificially created grade to the bottom of the sign, and which has a horizontal dimension equal to or greater than its vertical dimension.

MURAL SIGN. A sign which is applied to and made integral with a wall, the written message of which does not exceed three percent of the total area of the sign, and which has been approved pursuant to Section 91.6217 of this Code.

OFF-SITE SIGN. A sign which displays any message directing attention to a business, product, service, profession, commodity, activity, event, person, institution or any other commercial or noncommercial message, which is generally conducted, sold, manufactured, produced, offered or occurs elsewhere than on the premises where such sign is located.

ON-SITE SIGN. (Amended by Ord. No. 172,121, Eff. 8/30/98.) A sign which displays any message directing attention to a business, product, service, profession, commodity, activity, event, person, institution or any other commercial or noncommercial message, which is generally conducted, sold, manufactured, produced, offered or occurs elsewhere than on the premises where such sign is located.

ON-SITE SIGN. A sign that is other than an off-site sign.

POLE SIGN. (Amended by Ord. No. 172,121, Eff. 8/30/98.) A freestanding sign that is erected or affixed to one or more poles or posts and which exceeds a height of 12 inches as measured from the existing or artificially created grade to the bottom of the sign.

PROJECTING SIGN. A sign, other than a wall sign, that is attached to a building and projects outward therefrom with one or more sign faces approximately perpendicular to the face of the building.

PROJECTION. The distance by which a sign extends beyond the building line.

ROOF SIGN. A sign erected upon a roof of a building.

SIGN. Any display board, wall, screen, object or part thereof, used to announce, declare, demonstrate, display or otherwise present a message and attract the attention of the public.

SIGN AREA. An area circumscribed by the smallest geometric shape created with a maximum of eight straight liens which will enclose all words, letters, figures, symbols, designs and pictures, together with all framing, background material, colored or illuminated areas and attention-attracting devices forming an integral part of an individual message except that:

1. Wall signs having no discernible boundary shall have the areas between letters, words intended to be read together and any device intended to draw attention to the sign message included in any computation of surface area.

2. For spherical, cylindrical or other three-dimensional signs the area of the sign shall be computed from the smallest two-dimensional geometrical shape or shapes which will best approximate the greatest actual surface area visible from any one direction.

3. Sign support structures are excluded if neutral in color.

4. **"Time and Temperature"** sign copy is excluded from computation of sign area if such copy is less than 56 square feet in area.

SIGN FACE. The surface upon which the sign message is placed.

STREET FRONTAGE. The length of a line separating lot from one street.

TEMPORARY SIGN. Any sign that is to be maintained for a limited duration, not to exceed 60 days, including paper signs and other signs that are not permanently affixed to the ground or building.

WALL SIGN. Any sign attached to, painted on or erected against the wall of a building or structure, with the exposed face of the sign in a plan approximately parallel to the plane of the wall.

SEC. 91.6205. GENERAL REQUIREMENTS. (Amended by Ord. No. 171,175, Eff. 7/25/96.)

91.6205.1. Permit Required. (Amended by Ord. No. 172,703, Eff. 8/16/99.) A building permit shall be obtained from the Department in accordance with the provisions of Section 91.106 for any sign and/or sign alteration, other than changes or replacement of copy, that are regulated by this division, except those signs specified in Items 18 and 19 of Section 91.101.5 of this Code and temporary signs containing political, ideological or other noncommercial messages. Where signs are illuminated by electric lighting, an electrical permit shall also be obtained as required by Article 3 of Chapter IX of the Los Angeles Municipal Code.

The Department may evoke any sign permit as provided in Section 98.0602 of the Los Angeles Municipal Code.

91.6205.2. Plans. Plans and specifications shall be submitted with the application for permit for each sign. The

Department may require data to be submitted to show that the supporting surface and other members of an existing building to which a sign is to be attached are in good condition, and are adequate to support the load.

Plans shall show complete details, method of attachment or support, location and materials to be used. Plans for signs and sign support structures shall be accompanied by structural plans and computations.

EXCEPTION:

Structural plans and computations will not be required for wall signs painted on the wall, for wall signs less than 100 square feet in area, or for projecting signs less than 20 square feet in area.

91.6205.3. Design and Construction. (Amended by Ord. No. 172,592, Eff. 6/28/99, Oper. 7/1/99.) Sign frames and sign support structures shall be designed and constructed in conformity with other applicable provisions of this Code, and in addition, shall comply with the following:

1. Each sign and sign support structure shall be designed to resist the wind pressure as required by C.B.C. Section 1615.

2. Structural steel members shall be not less than ¼-inch thick if ungalvanized, and 3/16-inch thick if such members, including connecting bolts and fastenings, are galvanized or otherwise treated with approved weatherproofing. Bolts used to support signs equal to or greater than 100 square feet in area shall not be less than ½-inch in diameter. Bolts supporting signs less than 100 square feet in area shall not be less than ⅜ inch in diameter.

Signs erected on buildings or structures shall be securely attached by means of adequate metal brackets, expansion bolts, through bolts, or lag screws. No materials, fabrication, or equipment shall be used which may become dangerous because of vibration, corrosion, disintegration, or any other reason. Wire, other than stranded cable, shall not be used.

If supports of an existing structure are found to be inadequate, they shall be adequately strengthened before the sign is erected.

91.6205.4. Materials. Signs and sign support structures may be constructed of any material allowed in this division for the classification of the sign to be installed. Any materials used shall be of the same quality and grade as those specified in this Code for use in buildings. In addition, any glass material used in signs shall comply with the limits set forth in Table No. 62-A.

91.6205.5. Hazard to Traffic.

91.6205.5.1. Prohibition. No sign or sign support structure shall be erected, constructed, painted or maintained, and no permit shall be issued, if such sign or sign support structure, because of its location, size, nature or type, constitutes a hazard to the safe and efficient operation of vehicles upon a street or a freeway, or which creates a condition which endangers the safety of persons or property thereon.

91.6205.5.2. Hazard Referral. The Department of Building and Safety shall refer the following to the Department of Transportation for hazard evaluation and determination prior to the issuance of a building permit:

1. All permit applications for signs that will be visible from and are located within 500 feet of the main traveled roadway of a freeway;

2. All other permit applications and any signs that are determined by the Department of Building and Safety to have a potential for hazard.

91.6205.5.3. Hazard Determination. The Department of Transportation shall return to the Department of Building and Safety each application so referred to it together with a statement of its determination. If the Department of Transportation determines that the sign or sign support structure will constitute a hazard, the Department of building and Safety shall deny the application for permit.

91.6205.10. Prohibited Locations.

1. No sign or sign support structure shall project into any public alley, except that a sign or sign support structure above a height of 14 feet may project no more than six inches into a public alley.

2. No sign or sign support structure shall be erected in such a manner that any portion of its surface or support structure will interfere in any way with the free use of any fire escape, exit or standpipe, or obstruct any required ventilator, door or stairway. No signs or sign support structure shall obstruct any window to such an extent that any light or ventilation is reduced to a point below that required by law.

3. No sign or sign support structure shall be located less than six feet horizontally or 12 feet vertically from overhead electrical conductors which are energized in excess of 750 volts. The term "overhead electrical conductors" as used herein shall mean any electrical conductor, either bare or insulted, installed

above ground, except such conductors as are enclosed in iron pipe or other material covering of equal strength. Arcs of six foot radius may be used to define corners of prohibition area.

4. No sign or sign support structure shall be erected in a visibility triangle as defined by Sections 12.21-C 7 and 62.200 of the Los Angeles Municipal Code.

5. No sign or sign support structure shall be located within two feet of the curb or edge of any roadway.

91.6205.11. Prohibited Signs. Signs are prohibited if they:

1. Contain obscene matters, as defined in Section 311 of the Penal Code of the State of California.

2. Contain or consist of posters, pennants, banners, ribbons, streamers or spinners, except as permitted in Section 91.6216 of this Code.

3. Contain flashing, mechanical and strobe lights in conflict with the provisions of Section 80.08.4 and 93.0607 of the Los Angeles Municipal Code.

4. Are revolving and where all or any portion rotate at greater than six revolutions per minute.

5. Are tacked, pasted or otherwise temporarily affixed on the walls of building, barns, sheds, trees, poles, posts or fences, except as permitted in Section 91.6216 of this Code.

91.6206.4.3. Alterations, repairs or rehabilitation of existing sign and/or sign support structures that exceed 50 percent of the replacement cost of both the sign and sign

support structure shall comply with all the requirements of the current Code.

91.6206.5. Additions. Existing signs and/or sign support structures with additions or alterations that increase the sign area or height or which change the location or orientation of the sign shall comply with all of the requirements of the current Code.

SEC. 91.6207. INFORMATION SIGNS.
(Amended by Ord. No. 171,175, Eff. 7/25/96.)

91.6207.1. Area. Information signs shall not exceed 25 square feet in area.

91.6207.2. Height. Information signs shall be limited to a maximum overall height of six feet six inches above the sidewalk grade or edge of roadway grade nearest the sign.

91.6207.3. Construction. Information signs and sign support structures shall be constructed of noncombustible materials or approved plastics.

SEC. 91.6208. MONUMENT SIGNS.
(Amended by Ord. No. 171,175, Eff. 7/25/96.)

91.6208.1. Area.

1. The sign area of monument signs shall not exceed 1.5 square feet per foot of street frontage nor a maximum of 75 square feet for the sign face visible to the same direction of traffic.

2. The combined sign area of monument signs, projecting signs, wall signs, illuminated architectural canopy signs, pole signs, roof signs and window signs

shall not exceed four square feet for each foot of street frontage.

91.6208.2. Location.

1. Monument signs shall be located at least 7.5 feet from interior lot lines and at least 15 feet from any other monument sign, projecting sign or pole sign.

2. The location of monument signs shall not interfere or present a hazard to pedestrian or vehicular traffic.

91.6208.3. Height. The height to the top of the sign shall be limited to a maximum of eight feet above sidewalk grade or edge of roadway grade nearest the sign.

91.6208.4. Shape. Monument signs shall have a horizontal dimension equal to or greater than their vertical dimension.

91.6208.5. Projection. Monument signs shall not project over the roof of a building or over the building line.

91.6208.6. Construction. A monument sign and sign support structure shall be constructed of noncombustible materials or approved plastics.

SEC. 91.6209. PROJECTING SIGNS.
(Amended by Ord. No. 171,175, Eff. 7/25/96.)

91.6209.1. Permitted. Projecting signs shall not be permitted on that portion of a lot having less than 50 feet of street frontage. Lots having a street frontage of at least 50 feet may have a projecting sign for each 200 feet or fraction thereof of street frontage, if such frontage does not contain an existing projecting sign or a pole sign.

91.6209.2. Area.

1. The sign area of projecting signs visible to the same direction of traffic shall not exceed 25 square feet plus 1.5 square feet for each foot of street frontage up to a maximum sign area of 300 square feet. Any projecting sign located at the street corner of a corner lot may use the greater street frontage in computing area limitations.

2. The combined sign area of projecting signs, wall signs, monument signs, illuminated architectural canopy signs, pole signs, roof signs and window signs shall not exceed four square feet for each foot of street frontage.

91.6209.3. Location.

1. A projecting sign shall be located at least 7.5 feet from any interior lot line.

2. A projecting sign shall be located at least 15 feet from any other projecting sign, monument sign or pole sign.

3. The plane of the sign face of a projecting sign shall be within 15 degrees of being perpendicular to the face of the building, except at the corner of the building.

91.6209.4. Height. A projecting sign shall not be located lower than eight feet above sidewalk grade or edge of roadway grade nearest the sign and shall not extend above the top of the wall.

91.6209.5. Projections. A projecting sign may project over the building line, but shall not extend beyond the limits shown in Diagram 62-B of this Code. Sign projections shall fall within an area that is perpendicular to the building line and has a width of three feet as measured

parallel with the building line. In no event may a projecting sign project more than eight feet from the face of a building.

EXCEPTION:

For projecting signs located above a 16-foot height and on a lot having a street frontage greater than 50 feet, projections over the building line may vary linearly from five feet at 50 feet to eight feet at 100 feet of street frontage.

91.6209.6. Construction. A projecting sign and sign support structure shall be constructed of noncombustible material or approved plastic.

SEC. 91.6210. WALL SIGNS.
(Amended by Ord. No. 171,175, Eff. 7/25/96.)

91.6210.1. Area.

1. The total sign area of wall signs facing a street shall not exceed two square feet for each foot of street frontage, plus one square foot for each foot of building frontage for a single-story building.

2. For buildings more than one story in height, the combined wall sign area shall not exceed that permitted for a single story by more than 10 percent for each additional story. In no event shall the combined wall sign area exceed by 50 percent that area permitted for a single-story building.

3. For wall signs that are made up of individual letters that use the wall of the building as background, the allowable sign area may be increased by 20 percent, provided there is no change in color between the background and the surrounding wall area.

4. The combined sign area of illuminated architectural canopy signs, roof signs and wall signs facing the same direction shall not exceed two square feet for each foot of street frontage, plus one square foot for each foot of building frontage.

5. The combined sign area of wall signs, projecting signs, monument signs, illuminated architectural canopy signs, pole signs, roof signs and window signs shall not exceed four square feet for each foot of street frontage.

SEC. 91.6211. ILLUMINATED ARCHITECTURAL CANOPY SIGNS.
(Amended by Ord. No. 171,175, Eff. 7/25/96.)

91.6211.1. Area.

1. The area of illuminated architectural canopy signs shall not exceed two square feet for each foot of street frontage, plus one square foot for each foot of building frontage.

2. In applying sign area limits, only the area occupied by the message of the illuminated architectural canopy signs will be used.

3. The combined sign area of illuminated architectural canopy signs, roof signs and wall signs facing the same direction shall not exceed two square feet for each foot of street frontage, plus one square foot for each foot of building frontage.

4. The combined sign area of illuminated architectural canopy signs, projecting signs, monument signs, wall signs, pole signs, roof signs and window signs shall not exceed four square feet for each foot of street frontage.

91.6211.2. Projections. Illuminated architectural canopy signs may project over a building line. However, in no event may an illuminated architectural canopy sign project more than three feet from the face of the building.

91.6211.3. Construction. The supporting frame of an illuminated architectural canopy sign shall be constructed of noncombustible materials. The canopy surface, including the enclosing soffit, shall be of an approved light-transmitting material. The fabric shall be tested and classified as nonflammable under the provisions of Los Angeles Fire Department Standard No. 43 as referenced in Section 57.07.01 of the Los Angeles Municipal Code.

91.6211.4. Clearance. Illuminated architectural canopy signs shall have a minimum clearance of eight feet above the sidewalk grade or edge of roadway grade nearest the sign and shall not be located closer than two feet from the curb of any roadway.

91.6211.5. Emergency Personnel Access. Illuminated architectural canopy signs shall not occupy a four-foot distance along the exterior wall at one corner of the building's street frontage and an additional four-foot distance along every 50 feet of such frontage.

91.6211.6. Illumination. The sign shall be internally illuminated so as to illuminate the canopy and the exterior wall below. The illuminated architectural canopy sign shall bear the electric sign label of an approved testing agency with a reinspection service.

91.6211.7. Height. an illuminated architectural canopy sign shall not extend above the top of the wall of a building.

91.6211.8. Parking Lots. Where a parking lot exists between an illuminated architectural canopy sign and the street, and there is a wall between the parking lot and the street, a portion of the total sign area permitted by this section may be used on the wall located between the parking lot and the street so long as the sign does not project beyond the lot line. In such case, the sign shall be restricted to that portion of the wall between two feet six inches and three feet six inches in height above the finished grade at the base of the wall generally facing the street.

SEC. 91.6212. POLE SIGNS.
(Amended by Ord. No. 171,175, Eff. 7/25/96.)

91.6212.1. Permitted. Pole signs shall not be permitted on that portion of a lot having less than 50 feet of street frontage. Lots having a street frontage of at least 50 feet may have a pole sign for each 200 feet or fraction thereof of street frontage, if such frontage does not contain an existing pole sign or projecting sign.

91.6212.2. Area.

1. Sign area visible to the same direction of traffic shall not exceed two square feet for each foot of street frontage, plus one square foot for each foot of building frontage.

2. The maximum area of any one pole sign shall not exceed 400 square feet.

3. Any pole sign that is located at the street corner of a corner lot may use the greater street frontage for area limitations.

4. The combined sign area of pole signs, projecting signs, monument signs, illuminated architectural canopy signs, wall signs, roof signs and window signs shall not exceed four square feet for each foot of street frontage.

91.6212.3. Location.

1. Pole signs shall be located at least 10 feet from interior lot lines; however, on corner lots and flag lots pole signs may be located five feet from interior lot lines.

2. A pole sign shall be located at least 15 feet from any other pole sign, projecting sign or monument sign.

3. Pole signs shall be located so as not to interfere or present a hazard to pedestrian or vehicular traffic.

4. Where the lower part of a pole sign is less than eight feet above sidewalk grade or the edge of roadway grade nearest the sign, the sign shall extend to grade or shall be installed in a planter that extends beyond the edges of the sign and sign support structure and that is a minimum of 18 inches in height.

91.6212.4. Height. Height shall be measured from the nearest sidewalk or edge of roadway grade to the top of the sign. The overall height limitation shall be determined by street frontage as follows:

1. 25 feet for lots having 50 feet of street frontage;

2. 35 feet for lots having more than 50 feet and less than 100 feet of street frontage; and

3. 42 feet for lots having at least 100 feet of street frontage.

Any pole sign that is located at the street corner of a corner lot may use the greater street frontage for determining height limitations.

In no event shall sign exceed the height specified for the height district in which the sign is located.

91.6212.5. Projections. A pole sign may project over a building line, but shall not extend beyond the limits shown in Diagram 62-B of this Code. Sign projections shall fall within an area that is perpendicular to the building line and has a width of three feet as measured parallel to the building line.

91.6212.6. Construction. Pole signs and sign support structures shall be constructed of noncombustible materials or approved plastics. A maximum of two poles shall be permitted for any pole sign. The maximum cross-sectional dimension of a pole shall not exceed 10 percent of the overall height of the sign.

SEC. 91.6213. ROOF SIGNS.
(Amended by Ord. No. 171,175, Eff. 7/25/96.)

91.6213.1. Permitted. Roof signs shall be permitted only when placed directly upon a roof that slopes downward toward and extends to or over the top of an exterior wall.

91.6213.2. Area.

1. Sign area shall not exceed two square feet for each foot of street frontage, plus one square foot for each foot of building frontage.

2. The maximum area of any one roof sign shall not exceed 300 square feet.

3. The combined area of roof signs, illuminated architectural canopy signs and wall signs facing the same direction shall not exceed two square feet for each foot of street frontage, plus one square foot for each foot of building frontage.

4. The combined sign area of wall signs, projecting signs, monument signs, illuminated architectural canopy signs, pole signs, roof signs and window signs shall not exceed four square feet for each foot of street frontage.

91.6213.3. Location.

1. Roof signs shall be located at least 10 feet from interior lot lines.

2. Roof signs shall be located at least two feet from the edge of the roof.

3. The plane of the sign face of a roof sign shall be approximately parallel to the face of the building.

91.6213.4. Height. The top of the roof sign shall be located at least two feet below the ridge of the roof.

91.6213.5. Construction. A roof sign and sign support structure shall be constructed of noncombustible materials or approved plastics.

SEC. 91.6214. WINDOW SIGNS.
(Amended by Ord. No. 171,175, Eff. 7/25/96.)

91.6214.1. Area. The total area of all window signs shall not exceed 10 percent of the area of the window.

91.6214.2. Combined Area. The combined sign area of wall signs, projecting signs, monument signs, illuminated architectural canopy signs, pole signs, roof signs and

window signs shall not exceed four square feet for each foot of street frontage.

SEC. 91.6215. MARQUEE SIGNS.
(Amended by Ord. No. 171,175, Eff. 7/25/96.)

91.6215.1. Approval. Sign approval shall be obtained from the Cultural Affairs Commission.

91.6215.2. General Requirements. Marquee signs shall comply with the requirements set forth in Sections 91.3205 and 91.6201 through 91.6205 of this Code.

91.6215.3. Construction. Signs shall be constructed of noncombustible materials or approved plastics.

91.6215.4. Signs. (Added by Ord. No. 172,592, Eff. 6/28/99, Oper. 7/1/99.) Signs shall not be attached to any portion of the marquee except the periphery. Cloth or banner signs or drop-roll curtains may be suspended below the exterior periphery and extend within 7 feet of the grade.

SEC. 91.6216. TEMPORARY SIGNS.
(Amended by Ord. No. 171,175, Eff. 7/25/96.)

91.6216.1. Permit Required. (Amended by Ord. No. 172,703, Eff. 8/16/99.) Notwithstanding any other provision of this Code, a building permit shall be required for a temporary sign, pennant, banner, ribbon, streamer or spinner, other than one which contains a political, ideological or other noncommercial message. The permit application shall specify the dates being requested for authorized installation and the proposed location.

91.6216.2. Time Limit. (Amended by Ord. No. 172,703, Eff. 8/16/99.)

1. Temporary signs that require a permit shall be removed within 30 days of installation and shall not be reinstalled for a period of 30 days of the date of removal of the previous sign. The installation of temporary signs shall not exceed a total of 90 days in any calendar year.

2. Temporary signs that do not require a permit shall be removed within 30 days of the date of installation of the sign.

91.6216.3. Area.

1. The combined sign area of temporary signs shall not exceed two square feet for each foot of street frontage.

2. The combined sign area of temporary signs, when placed upon a window, and any other window signs shall not exceed a maximum of ten percent of the window area. **(Amended by Ord. No. 172,703, Eff. 8/16/99.)**

91.6216.4. Type/Construction. Temporary signs may contain or consist of posters, pennants and banners. Temporary signs may be made of paper or any other material. If the temporary sign is made of cloth, it shall be flameproofed when the aggregate area exceeds 100 square feet. Every temporary cloth sign shall be supported and attached with stranded cable of 1/16-inch-minimum diameter or by other methods as approved by the Department.

91.6216.5. Location. Temporary signs, including those that do not require a permit, may be tacked, pasted or

otherwise temporarily affixed to windows and/or on the walls or buildings, barns, sheds or fences.

SEC. 91.6217. MURAL SIGNS.
(Amended by Ord. No. 171,175, Eff. 7/25/96.)

91.6217.1. Approval. Approval for mural signs shall be obtained from the Cultural Affairs Commission. The placement, height, and overall area of a mural sign shall be as approved by the Cultural Affairs Commission. In making its determination the Cultural Affairs Commission shall find that the proposed sign does not conflict with the purposes and objectives set forth in Section 91.6201.2.

91.6217.2. General Requirements. In addition to the requirements of this section, mural signs must comply with Sections 91.6201 through 91.6205. Mural signs shall not be required to comply with the provisions of Sections 91.6210 and 91.6218.

SEC. 91.6218. OFF-SITE SIGNS.
(Amended by Ord. No. 171,175, Eff. 7/25/96.)

91.6218.1. General. Off-site signs shall comply with the requirements of this section and any applicable provisions of Sections 91.6201 through 91.6205.

91.6218.2. Location.

1. No portion of an off-site sign with a sign area greater than 80 square feet shall be placed within 200 feet of a residentially zoned lot which is located on the same side of the same street as the lot on which the sign is placed. However, where a lot has two or more street frontages, an off-site sign may be located on that street frontage which is not on the same street as the residentially zoned lot; provided the off-site sign

and sign support structure are placed in that half of the lot that is the farthest from the street frontage on which the residentially zoned lot is located.

2. No portion of an off-street sign or sign support structure shall be located in that half of a lot located farthest from the street frontage when residentially zoned property is located to the rear of that street frontage.

3. Off-site signs are not permitted along that portion of lots having a street frontage of less than 50 feet.

4. No more than four off-site signs shall be located at the intersection of two or more streets when such signs are located within 150 feet of the intersection of two street frontages.

5. An off-site sign face shall not be located within one foot of an interior lot line.

91.6218.3. Double-faced Signs.

1. Off-site signs may be either single or double-faced.

2. For double-faced signs whose faces are parallel, the distance between sign faces shall not exceed six feet.

3. For double-faced signs whose faces are not parallel, the distance between sign faces at their widest point shall not exceed 35 feet. The separation of sign faces at their closest point shall not exceed six feet. In no event shall the angle between sign faces exceed 37 degrees.

91.6218.4. Spacing.

1. A sign which is either single faced or parallel double faced shall be spaced as specified in Table No. 62-C of this Code from any other existing or previously permitted off-site sign which is single faced or parallel double faced.

2. For any double-faced sign, the spacing requirements shall be based on the area of the largest sign face.

3. For double-faced signs whose faces are not parallel, the spacing between any proposed, permitted or existing sign shall be determined by the following formula:

$$D = S \left| 1 + \frac{(B-5)}{90} \right|$$

WHERE:

D = required spacing between signs, in feet.
S = sign spacing determined from Table No. 62-C, in feet.
B = widest edge separation of sign faces in feet.

4. Spacing shall be measured between signs that are located on the same side of the same street. Such spacing shall be measured from a line that is perpendicular to the building line and that passes through a point on the building line that is closest to the nearest sign face edge. Spacing shall be measured along the center line of the street.

91.6218.5. Area. The sign area of a single face shall not exceed 800 square feet.

91.6218.6. Height.

1. The height to the top of the sign shall be limited to a maximum of 42 feet above the sidewalk

grade or edge of roadway grade nearest the sign, except that a sign that is more than 80 percent above a roof of a building may extend to the top of the sign a maximum of 30 feet above the surface of the roof under the sign.

2. In no event shall the height to the top of the sign exceed a height greater than that height specified for the height district in which the sign is located, or a height of 60 feet above the sidewalk grade or edge of roadway grade nearest the sign, whichever is more restrictive.

3. The bottom of the sign shall be at least eight feet above the sidewalk grade or edge of roadway grade nearest the sign.

91.6218.7. Projection. Off-site signs shall not project beyond the building line.

91.6218.8. Covering. The backs of off-site signs exposed to public view shall be covered with a finished surface or material and shall be properly maintained.

91.6218.9. Construction.

1. A sign and sign support structure shall be constructed of noncombustible materials or approved plastics.

EXCEPTION:

The sign facing may be mounted on wood-frame panels with the panels connected to wood runners that are bolted to a noncombustible frame.

2. A maximum of two poles shall be permitted for any sign. The maximum cross-sectional dimension of a pole shall not exceed 10 percent of the overall height of the sign.

3. Off-site sign supports shall be structurally independent of a building.

4. Sign support structures must be located directly under the sign face as viewed from the front of the sign. The maximum horizontal distance between the center of the sign support structure and the sign face shall not exceed 10 feet.